

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANTONIO M. HUDSON,

Plaintiff,

v.

ARTHUR J. TARNOW, et al.,

Defendant.

Case No. 2:13-cv-12604

Judge Peter C. Economus

Magistrate Judge Michael Hluchaniuk

MEMORANDUM OPINION AND ORDER

Plaintiff Antonio M. Hudson (“Mr. Hudson”), a formerly incarcerated individual, brought this action under 42 U.S.C. § 1983 and the cause of action announced by the United States Supreme Court in *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). On September 24, 2014, the Court dismissed this action pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 98.) This matter is before the Court on Mr. Hudson’s application to proceed *in forma pauperis* on appeal. (ECF No. 98.)

A non-prisoner who desires to appeal *in forma pauperis* must first file a motion seeking such relief with the district court. *See Fed. R. App. P. 24(a)(1)*. “After this required information has been filed, the district court must ascertain both the individual’s pauper status and the merits of the appeal.” *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999). “If the district court determines that the individual is not a pauper, that the appeal is not taken in good faith, or that the individual is not otherwise entitled to pauper status, the district court must state its decision in writing, and then immediately notify the parties of its decision. *See Fed. R. App. P. 24(a)(4)*.” *Callihan*, 178 F.3d at 803 (internal citations omitted).

Upon reviewing Mr. Hudson’s financial documents, the Court determines that Mr. Hudson is a financially indigent pauper. The Court must next determine whether the appeal is taken in good faith. 28 U.S.C. §1915(a)(3). An appeal is taken in good faith if it raises “any issue

not frivolous.” *Coppedge v. United States*, 369 U.S. 438, 445 (1962). A complaint is frivolous when a plaintiff “has failed to present a claim with an arguable or rational basis in law or in fact.” *Scott v. Evans*, 116 F. App’x 699, 702 (6th Cir. 2004) (citing *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). The Court certifies that there is no arguable factual or legal basis for Mr. Hudson’s claims, that his appeal is frivolous, and that his appeal is not taken in good faith. 28 U.S.C. §1915(a)(3).

For the reasons discussed above, Mr. Hudson’s application for leave to appeal *in forma pauperis* (ECF No. 98) is **DENIED**. The Court **ORDERS** Mr. Hudson to pay the full filing fee for an appeal within thirty (30) days of the date of this Order.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE